



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

March 4, 1994
AO 94-07

Arthur B. McCue
City Clerk
Somerville City Hall
93 Highland Ave.
Somerville, MA 02143

Re: City of Somerville Board of Election Commissioners

Dear Mr. McCue:

This letter is in response to your January 18, 1994 letter requesting an advisory opinion regarding the authority of the City of Somerville Board of Election Commissioners ("Board") to keep and maintain campaign finance records.

You have asked four questions relating to the powers and duties of the Board. I will answer them in order.

1) What local agency or office has the responsibility under M.G.L. c. 55 for the collection and maintenance of election campaign finance records?

The campaign finance law, M.G.L. c. 55, is a comprehensive statute which governs all campaign finance activity including where campaign finance reports are filed and who is responsible for their collection and maintenance.

Specifically, M.G.L. c. 55, s. 18 provides that:

Each candidate and each treasurer of a political committee shall file with the director, or if the candidate seeks public office at a city or town election or if the committee is organized for the purpose of a city or town election, with the city or town clerk, reports of contributions received and expenditures made on forms to be prescribed by the director.

Moreover, M.G.L. c. 55, s. 26 provides that:

The city or town clerk shall retain all reports and statements required to be filed with him until the term of the office the candidate is seeking has ended.

These sections of the campaign finance law require candidates and treasurers of political committees to file, and authorizes the municipal clerk in most cities or towns to keep and maintain, campaign finance reports.

However, M.G.L. c. 50, s. 1 provides that the term "city clerk" as used in chapter 55 shall be construed to include:

the board of election commissioners or election commission of any city having such a board or commission, with reference to all matters coming within the scope of their powers and duties, and as to such matters shall not apply to the city clerk of such a city.

In the particular case of Somerville, Chapter 82 of the Acts of 1928 established the Board of Election Commissioners ("Board") in the City of Somerville by Special Act.

Section 5 of this Act provides that:

All the powers, duties and liabilities relating to caucuses, primaries and elections by law vested in and placed upon the mayor, the board of aldermen, the city clerk and the board of registrars of voters except the power and duty of fixing the days and hours and places for holding the same, shall in said city be vested in and placed upon the board of election commissioners."
(Emphasis Added).

Thus, this Act establishes the Board as the local agency with responsibility for all duties relative to campaign finance matters that would be assumed in other cities or towns by a municipal clerk.¹

For the above reasons, it is my opinion that, in the City of Somerville, the Board replaces the city clerk as the agency responsible for the maintenance of campaign finance records including reports filed by all candidates and political committees.

2) Does the law provide for alternatives where such records are to be filed?

No. The campaign finance law is specific in regard to exactly where candidates and political committees must file at the local level. As a result of Chapter 82 of the Acts of 1928 as amended, in the City of Somerville, candidates and political committees must file campaign finance reports with the Somerville Board of Election Commissioners.

3) Is there any legal requirement to date stamp the records when the same are received by the local agency?

M.G.L. c. 55 contains no specific requirement that a local agency date stamp records or reports received. However, this office and most local election officials routinely date stamp all campaign finance reports when filed, and I strongly recommend this practice.

1. Historically, it is of interest to note that the city clerk was originally an ex officio member of the Somerville Board of Election Commissioners. However, Chapter 178 of the Acts of 1929 removed the city clerk as an ex officio member of the Board.

Date stamping campaign finance reports provides clear evidence that a candidate or political committee has actually filed a particular report. In addition, I note that there may be other requirements pertaining to public records that would require date stamps. You may wish to review the use of a date stamp with the city's solicitor or contact the Office of the Secretary of State for more information on this matter.

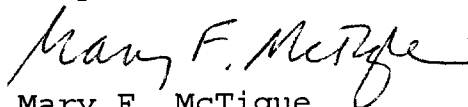
4) Does any elected official have the option of filing with one or another local office?

No. All reports must be filed with the one local agency responsible for keeping such records. In the case of the City of Somerville, this local agency is the Board of Election Commissioners. This does not mean, however, that a candidate, including a local elected official, cannot deliver copies of his reports to other city officials. However, such delivery would not constitute a filing under the statute. In order for the reports to be filed properly they must be filed with the Somerville Board of Election Commissioners.

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c. 55.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Very truly yours,


Mary F. McTigue
Director

MFM/cp